In The Senate of The United States Sitting as a Court of Impeachment

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In re:)
Impeachment of G. Thomas Porteous, Jr.,)
United States District Judge for the)
Eastern District of Louisiana)
)

JUDGE G. THOMAS PORTEOUS, JR.'S PROPOSED STIPULATIONS OF FACT

Judge Porteous respectfully submits the following proposed stipulations of fact, to be used at the Senate impeachment trial Committee hearing regarding the impeachment of Judge G. Thomas Porteous, Jr.:

- 1. Judge Porteous graduated from Cor Jesu, now Brother Martin, High School was honored as the alumnus of the year there in 1997.
 - 2. Judge Porteous graduated from LSU in 1968 and the LSU law school 1971.
- 3. In 1984, Judge Porteous was elected Judge to an open seat of the 24th JDC in Jefferson Parish, Louisiana without opposition.
 - 4. In 1990, Judge Porteous was re-elected without opposition.
- 5. The FBI investigated Judge Porteous and he was never charged with a single criminal act as a state or federal judge.
- 6. Judge Porteous was not impeached for any bribe or kickback received as a state or federal judge.
- 7. The Federal Bureau of Investigation and a grand jury empanelled in the Eastern District of Louisiana conducted an investigation for several years and at the conclusion of the investigation "[t]he Department [] determined that it will not seek criminal changes against Judge Porteous." (*See* HP Ex. 004.)
- 8. The New Orleans Division of the FBI conducted an investigation into allegations of judicial corruption in the 24th JDC. That investigation resulted in the convictions of fourteen defendants, including several 24th JDC judges, the owners of a bail bonding business, and other state court litigants and officials. (*See* HP Ex. 004.) Judge Porteous was never charged or convicted.

- 9. On May 18, 2007, the Justice Department wrote a letter stating "In reaching its decision not to bring other available charges that are not time barred, the Department weighed the government's heavy burden of proof in a criminal trial and the obligation to carry that burden to a unanimous jury; concerns about the materiality of some of the Judge Porteous's false statements; the special difficulties of proving *mens rea* and intent to deceive beyond a reasonable doubt in a case of this nature, and the need to provide consistency in charging decision concerning bankruptcy and criminal contempt matters." (HP Ex. 004.)
- 10. On August 28, 2007, Chief Judge Jones filed a "Complaint of Judicial Misconduct" declaring: "I initiate, nunc pro tunc, a complaint of judicial misconduct concerning the Honorable Thomas G. Porteous, Jr. (sic)."
- 11. The Fifth Circuit Judicial Council (the "Fifth Circuit") convened a Special Investigatory Committee to review the DOJ's allegations against Judge Porteous. (See HP Ex. 005.)
- 12. The Fifth Circuit subsequently appointed a three-judge panel to hold a hearing on Monday, October 29, 2007, chaired by Chief Judge Edith Jones. The hearing was held over the strenuous objections of Judge Porteous (representing himself at the time). (*See* HP Ex. 005.)
- 13. Chief Judge Edith Jones required Judge Porteous to testify before he had received the actual order granting him immunity and before he could even review the extent of the immunity granted. (*See* HP Ex. 010.)
- 14. At the Fifth Circuit's hearing, Ron Woods, appointed as co-counsel for the Fifth Circuit, admitted to Judge Edith Jones that Judge Porteous did not receive the order before the hearing. (*See* HP Ex. 010.)
- 15. The order compelling Judge Porteous's testimony before the Fifth Circuit was signed three weeks before the hearing where it was presented to Judge Porteous for the first time. (*See* HP Ex. 010.)
- 16. At the Fifth Circuit's hearing, Judge Porteous asked for a continuance so that he could review the order.
 - 17. Witnesses are generally allowed to see immunity orders before testifying.
- 18. At the Fifth Circuit hearing, when Judge Porteous asked for time to review the immunity order, Judge Edith Jones, responded that "immunity is better than non immunity, sir. Continuance is denied. You may take the stand." (HP Ex. 010.)
- 19. At the Fifth Circuit's hearing, Judge Benavides stated that Judge Porteous was granted immunity and would not be testifying but for that grant of immunity.
- 20. In response to Judge Benavides statement, Larry Finder, co-counsel for the Judicial Council, agreed and made clear that the grant of statutory immunity is co-extensive with Judge Porteous's Fifth Amendment right against self-incrimination. (*See* HP Ex. 010.)

- 21. Robert Creely and Judge Porteous have known each other since 1974. (*See* Tr. of Robert Creely Dep., taken on August 2, 2010 (hereinafter "Tr. of Creely Dep."), at 9.)
- 22. From the early 1970s through the early 2000s, Judge Porteous and Robert Creely were very close friends. (*See* Tr. of Creely Dep. at 10-11, 134.)
- 23. Robert Creely first met Judge Porteous when Mr. Creely joined the law firm of Edwards, Porteous, & Amato. (*See* Tr. of Creely Dep. at 9.)
- 24. Judge Porteous's children have in the past referred to Robert Creely as "Uncle Bob." (See Tr. of Creely Dep. at 11.)
- 25. Robert Creely is a friend of Judge Martha Sassone. (See Tr. of Creely Dep. at 28.)
 - 26. Robert Creely is a friend of Judge Ross LaDart. (See Tr. of Creely Dep. at 28.)
- 27. Jacob Amato and Judge Porteous have known each other since the early 1970s. (*See* Tr. of Jacob Amato Dep., taken on August 2, 2010, at 8:02-15, hereinafter "Tr. of Amato Dep.")
- 28. From the early 1970s through the early 2000s, Jacob Amato considered Judge Porteous to be a "good friend." (*See* Tr. of Amato Dep. at 11:02-05.)
- 29. Judge Porteous worked with Jacob Amato when they both were prosecutors with the Jefferson Parish District Attorney's Office. (*See* Tr. of Amato Dep. at 8:02-15.)
- 30. When Judge Porteous began working at the Jefferson Parish District Attorney's office in the early 1970s, Jacob Amato was assigned to train Judge Porteous. (*See* Tr. of Amato Dep. at 8:02-15.)
- 31. Jacob Amato, Judge Porteous, and Marion Edwards formed a law partnership in 1973. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 5; *see also* Tr. of Amato Dep. at 9:19-10:04.)
- 32. The law partnership that Jacob Amato, Judge Porteous, and Marion Edwards formed in 1973 was named Edwards, Porteous, and Amato. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 5; *see also* Tr. of Amato Dep. at 9:19-10:04.)
- 33. Pursuant to state rules that allowed Assistant District Attorneys to maintain a private practice, Judge Porteous continued to serve as an Assistant District Attorney while he was a partner of Edwards, Porteous, and Amato. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 5.)
- 34. Jacob Amato and Robert Creely practiced law together from approximately 1973 until 2005. (*See* Tr. of Amato Dep. at 10:11-21; *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 26.)

- 35. Judge Porteous's children have in the past referred to Jacob Amato as "Uncle Jake." (See Tr. of Amato Dep. at 11:14-17.)
- 36. Jacob Amato was friends with all of the state court judges in the 24th Judicial District. (See Tr. of Amato Dep. at 14:04-15.)
- 37. Jacob Amato was friends with Judges Petri, McManus, Benge, and Collins. (*See* Tr. of Amato Dep. at 14:04-15.)
- 38. Jacob Amato stated that "there wasn't that many judges and there wasn't that many lawyers that you didn't get to be friends with them if you practiced law." (See Tr. of Amato Dep. at 14:09-15.)
- 39. Jacob Amato was not aware of Judge Porteous's financial situation prior to Judge Porteous becoming a state judge or thereafter. (*See* Tr. of Amato Dep. at 11:25-12:07, 30:11-13.)
- 40. Jacob Amato stated that "most of the judges were friends of mine before they became judges, and all of them remained close friends after they became judges." (See Tr. of Amato Dep. at 22:12-17.)
- 41. Robert Creely and Judge Porteous went to lunch regularly while Judge Porteous was a state court judge. (*See* Tr. of Creely Dep. at 13.)
- 42. In addition to Judge Porteous, Robert Creely also went to lunch with most of the other judges in the 24th Judicial District. (*See* Tr. of Creely Dep. at 14, 127.)
- 43. Between 1984 and 1994, it was customary for state court judges in the 24th Judicial District to go to lunch with attorneys practicing in and around Gretna, Louisiana. (*See* Tr. of Creely Dep. at 14, 16.)
- 44. When Robert Creely went to lunch with state court judges in the 1980s and 1990s, unless a campaign committee sponsored the lunch, either he or another attorney in attendance would pay for the meal. (*See* Tr. of Creely Dep. at 16-17.)
- 45. Robert Creely would pay for lunches that he attended with judges out of friendship with those judges. (*See* Tr. of Creely Dep. at 67.)
- 46. Robert Creely only knows of one state court judge who ever paid for a meal attended by other attorneys. (*See* Tr. of Creely Dep. at 16-17, 67-668.)
- 47. The single state court judge that Robert Creely knows to have paid for a meal attended by other attorneys only paid for one such meal. (*See* Tr. of Creely Dep. at 16.)
- 48. After Judge Porteous was appointed to the federal bench in 1994, Robert Creely had lunch with him "very much less frequently." (*See* Tr. of Creely Dep. at 17-18.)

- 49. Robert Creely never expected to receive any advantage from the judges that he took to lunch. (*See* Tr. of Creely Dep. at 70.)
- 50. When Jacob Amato and Judge Porteous were both Assistant District Attorneys, they had lunch together "frequently." (*See* Tr. of Amato Dep. at 12:16-20.)
- 51. Jacob Amato and Judge Porteous continued to have lunch together until approximately 2003. (*See* Tr. of Amato Dep. at 12:21-13:09.)
- 52. When Judge Porteous was a state judge, Jacob Amato continued to have lunch with him. (*See* Tr. of Amato Dep. at 13:19-21.)
- 53. Jacob Amato also had lunch and dinner with other state court judges, including those he appeared before. (*See* Tr. of Amato Dep. at 14:01-03.)
- 54. Jacob Amato believed that it was customary for lawyers in Gretna to have lunch together. (*See* Tr. of Amato Dep. at 13:10-18.)
- 55. Jacob Amato believed that it was customary for lawyers to have lunches with judges. (*See* Tr. of Amato Dep. at 13:10-18.)
- 56. Jacob Amato believed it was customary for lawyers to buy lunch for judges. (*See* Tr. of Amato Dep. at 15:25-16:03.)
- 57. Jacob Amato did not see anything wrong with buying lunches for judges. (*See* Tr. of Amato Dep. at 15:25-16:03.)
- 58. According to Jacob Amato, Judge Porteous would buy lunch on occasion. (*See* Tr. of Amato Dep. at 15:18-21; *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 24 & n.95.)
- 59. It was well known that Judge Porteous and Jacob Amato knew each other, were friends, and had lunch together. (*See* Tr. of Amato Dep. at 16:15-19.)
- 60. Jacob Amato did not feel that his buying Judge Porteous lunch would affect judge Porteous's actions on the bench "in any way." (*See* Tr. of Amato Dep. at 20:04-08.)
- 61. Jacob Amato always thought Judge Porteous "did the right thing" irrespective of Amato having taken Judge Porteous to lunch. (*See* Tr. of Amato Dep. at 20:09-13.)
 - 62. No federal rule or law bars federal judges from accepting meals from lawyers.
- 63. No federal rule or law bars federal judges from encouraging state judges to follow practices such as granting bonds.
- 64. During their friendship, Robert Creely and Judge Porteous went on several trips together. (*See* Tr. of Creely Dep. at 18.)

- 65. In addition to Judge Porteous, Robert Creely also went on trips with other state court judges. (*See* Tr. of Creely Dep. at 20.)
- 66. When Robert Creely invited other lawyers and judges to go on a trip with him, Mr. Creely paid the cost (if any) associated with that person's attendance. (*See* Tr. of Creely Dep. at 19-21.)
- 67. Robert Creely did not have any concern about taking judges on hunting or fishing trips. (*See* Tr. of Creely Dep. at 21.)
- 68. It was common in the 1990s for judges in Gretna, Louisiana to go on fishing and hunting trips with lawyers.
- 69. Robert Creely only appeared before Judge Porteous a very limited number of times. (*See* Tr. of Creely Dep. at 32, 85-86.)
- 70. Robert Creely only recalls appearing before Judge Porteous three times. (*See* Tr. of Creely Dep. at 21, 85-86.)
- 71. Two of the three times that Robert Creely recalls appearing before Judge Porteous occurred when Judge Porteous was a state court judge. (*See* Tr. of Creely Dep. at 21-28.)
- 72. The third time that Robert Creely recalls appearing before Judge Porteous occurred when Judge Porteous was a federal district court judge. (*See* Tr. of Creely Dep. at 21-28.)
- 73. Robert Creely does not feel that there is anything improper about appearing before a judge with whom he is friends. (*See* Tr. of Creely Dep. at 30.)
- 74. Robert Creely does not feel that he received any special treatment in connection with the cases in which he appeared before Judge Porteous. (*See* Tr. of Creely Dep. at 23, 24-26, 28, 134.)
- 75. Jacob Amato recalls one case where he appeared before Judge Porteous in state court. (*See* Tr. of Amato Dep. at 19:19-03.)
- 76. Jacob Amato remembers that he lost the one case in which he appeared before Judge Porteous in state court. (*See* Tr. of Amato Dep. at 19:19-03.)
- 77. The House of Representatives has no evidence that Jacob Amato appeared before Judge Porteous in state court in any case where Mr. Amato prevailed in terms of a trial victory or judgment.
- 78. According to Robert Creely, Mr. Creely gave Judge Porteous gifts of money because he was his friend. (*See* Tr. of Creely Dep. at 32, 49, 110.)
- 79. Robert Creely did not keep records of the gifts that he gave to Judge Porteous. (*See* Tr. of Creely Dep. at 33-34.)

- 80. The money that Robert Creely allegedly gave to Judge Porteous was Mr. Creely's personal money. (*See* Tr. of Creely Dep. at 36-37.)
- 81. The money that Robert Creely allegedly gave to Judge Porteous was not his law firm's (Amato & Creely PLC) money. (*See* Tr. of Creely Dep. at 36-37.)
- 82. Robert Creely did not claim any tax deduction for the money that he allegedly gave to Judge Porteous. (See Tr. of Creely Dep. at 37.)
- 83. Robert Creely did not claim any tax deduction for the money that he allegedly gave to Judge Porteous because that money was a gift. (*See* Tr. of Creely Dep. at 37.)
- 84. When Robert Creely and Jacob Amato were law partners they typically took equal draws of the income of their law firm. (*See* Tr. of Creely Dep. at 36, 89.)
- 85. Robert Creely did not expect to receive anything in return from Judge Porteous as a result of any gifts to Judge Porteous. (*See* Tr. of Creely Dep. at 49, 71.)
- 86. Robert Creely did not receive anything in return from Judge Porteous as a result of any gifts to Judge Porteous. (*See* Tr. of Creely Dep. at 49, 124.)
- 87. Robert Creely did not give Judge Porteous money with the intent of encouraging him to rule in Mr. Creely's favor. (*See* Tr. of Creely Dep. at 51.)
 - 88. Robert Creely did not bribe Judge Porteous. (See Tr. of Creely Dep. at 72-73.)
- 89. There was no *quid pro quo* for the money that Robert Creely gave to Judge Porteous. (*See* Tr. of Creely Dep. at 83.)
- 90. Robert Creely does not recall ever telling Judge Porteous that a portion of the money that Mr. Creely gave Judge Porteous came from Jacob Amato. (*See* Tr. of Creely Dep. at 38.)
- 91. Robert Creely does not think that there is anything wrong with giving money to a friend. (*See* Tr. of Creely Dep. at 51.)
- 92. Robert Creely did not think that there was anything wrong with giving money to his friend Judge Porteous. (See Tr. of Creely Dep. at 83, 123-24.)
- 93. Robert Creely never hid the fact that he gave money to Judge Porteous. (*See* Tr. of Creely Dep. at 123.)
- 94. Robert Creely's estimation that he gave Judge Porteous a total of approximately ten thousand dollars is a guess. (*See* Tr. of Creely Dep. at 50.)
- 95. Robert Creely does not think that he gave Judge Porteous more than a total of ten thousand dollars. (*See* Tr. of Creely Dep. at 104.)

- 96. The only money that Robert Creely gave to Judge Porteous while he was a federal judge was the one thousand dollars that he gave to Jacob Amato to give to Judge Porteous in 1999. (*See* Tr. of Creely Dep. at 110, 117-18.)
- 97. Jacob Amato never thought Judge Porteous "swayed to rule in [his] favor because [they] were friends or rule against somebody because they weren't his friends." (*See* Tr. of Amato Dep. at 20:14-18.)
- 98. Jacob Amato does not think that Robert Creely's gifts or loans of money to Judge Porteous affected Judge Porteous's handling of judicial matters in any way. (*See* Tr. of Amato Dep. at 39:19-22.)
- 99. Jacob Amato thought Judge Porteous "called them as he saw them." (See Tr. of Amato Dep. at 21:02-10.)
- 100. Jacob Amato's knowledge relating to gifts or loans by Robert Creely to Judge Porteous is based solely on conversations Mr. Amato had with Mr. Creely. (*See* Tr. of Amato Dep. at 26:03-09.)
- 101. Any money that Jacob Amato gave to Robert Creely for the purpose of a gift or loan to Judge Porteous was his personal money. (*See* Tr. of Amato Dep. at 34:11-35:07.)
- 102. No money that Jacob Amato gave to Robert Creely for the purpose of a gift or loan to Judge Porteous was asset of the law firm Amato & Creely. (*See* Tr. of Amato Dep. at 34:11-35:07.)
- 103. Jacob Amato never had a conversation with Judge Porteous regarding a relationship between the assignment of curatorship cases and gifts or loans provided by Robert Creely to Judge Porteous. (*See* Tr. of Amato Dep. at 37:23-38:03.)
- 104. Jacob Amato is aware of no records of the total amount of cash that was given to Judge Porteous by Robert Creely. (*See* Tr. of Amato Dep. at 38:21-25.)
- 105. The Houses of Representatives has no documentary evidence regarding the amount of cash that was given to Judge Porteous from Robert Creely.
- 106. When Judge Porteous became a federal judge, Robert Creely ceased giving Judge Porteous cash either directly or indirectly. (*See* Tr. of Amato Dep. at 65:10-13.)
- 107. A curatorship is an appointment by a Louisiana state court of a private attorney to represent the interests of an absent defendant. (See Tr. of Creely Dep. at 38.)
- 108. In the late 1980s and early 1990s the total number of curatorships to be assigned in the 24th Judicial District Court of Louisiana increased.
- 109. In the late 1980s and early 1990s the total number of curatorships to be assigned in the 24th Judicial District Court of Louisiana increased as a result of the downturn in the economy.

- 110. Between 1984 and 1994, Louisiana state court judges had total discretion concerning the appointments of curators. (*See* Tr. of Creely Dep. at 40-41.)
- 111. Between 1984 and 1994, judges in the 24th Judicial District Court typically assigned curatorships to their friends. (*See* Tr. of Creely Dep. at 40.)
- 112. While Judge Porteous was a state judge, there was no state rule barring the assigning of curatorships to friends.
- 113. Judge Porteous's assignment of curatorships to friends as a state judge was not unlawful.
- 114. Today, there is no rule barring the assignment of curatorships in the Louisiana state courts to friends.
- 115. Robert Creely received curatorship appointments from several judges in the 24th Judicial District Court, including judges that he considered to be his friends. (*See* Tr. of Creely Dep. at 29-30.)
- 116. Robert Creely received curatorship appointments from judges other than Judge Porteous in the 24th Judicial District Court that he considered friends. (*See* Tr. of Creely Dep. at 41.)
- 117. Robert Creely has no independent knowledge of the number of curatorships that he received from Judge Porteous. (*See* Tr. of Creely Dep. at 42-43.)
- 118. Robert Creely has no independent knowledge of the number of curatorships that he received from any state court judge other than Judge Porteous. (*See* Tr. of Creely Dep. at 42-43.)
- 119. Robert Creely never saw a link between the gifts that he gave to Judge Porteous and the curatorships that Judge Porteous assigned to Mr. Creely. (*See* Tr. of Creely Dep. at 47, 73.)
- 120. Robert Creely never understood there to be a link between the gifts that he gave to Judge Porteous and the curatorships that Judge Porteous assigned to Mr. Creely. (*See* Tr. of Creely Dep. at 47, 73.)
- 121. Robert Creely never had any agreement with Judge Porteous to exchange gifts of money for curatorship assignments. (*See* Tr. of Creely Dep. at 48.)
- 122. Robert Creely never had any agreement with Judge Porteous to kickback money received curatorship appointments. (*See* Tr. of Creely Dep. at 71.)
- 123. At some point between 1984 and 1994, Robert Creely told Judge Porteous that Judge Porteous had no interest in the curatorships that he was assigning to Mr. Creely. (*See* Tr. of Creely Dep. at 47-48.)

- 124. Robert Creely would have given Judge Porteous gifts of money even if Judge Porteous had not assigned him curatorships. (*See* Tr. of Creely Dep. at 48.)
- 125. During the period when Judge Porteous was a state judge, a curatorship would on average result in \$200 or less in profit for attorneys assigned such curatorships.
- 126. Robert Creely had no involvement in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794). (*See* Tr. of Creely Dep. at 52.)
- 127. The *Lifemark v. Liljeberg* case (No. 2:93-cv-1794) never came up in Robert Creely's discussions with Judge Porteous. (*See* Tr. of Creely Dep. at 53.)
- 128. At least 7 federal district court judges presided over some portion of the *Lifemark* v. *Liljeberg* case (No. 2:93-cv-1794). (HP Ex. 050.)
- 129. The district judges assigned to preside over some portion of the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794) include: Judge Marcel Livaudais, Judge Ginger Berrigan, Judge Okla Jones, Judge Morey Sear, Judge Adrian Duplantier, Judge Eldon Fallon, and Judge Porteous. (HP Ex. 050.)
- 130. At least 3 federal magistrate judges presided over the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794). (HP Ex. 050.)
- 131. The magistrate judges assigned to preside over some portion of the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794) include: Judge Ivan Lemelle, Judge Joseph Wilkinson, and Judge Ronald Fonseca. (HP Ex. 050.)
- 132. During the recusal hearing in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794), Judge Porteous disclosed that he was friends with Jacob Amato. (HP Ex. 56, at 4.)
- 133. During the recusal hearing in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794), Judge Porteous disclosed that he was friends with Leonard Levenson. (HP Ex. 56, at 4.)
- 134. During the recusal hearing in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794), Judge Porteous expressly disclosed that he practiced law with Mr. Amato over twenty years before the hearing. (HP Ex. 56, at 5.)
- 135. During the recusal hearing in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794), Judge Porteous expressly disclosed that he regularly went to lunch with Jacob Amato, as well as other members of the New Orleans bar. (HP Ex. 56, at 7.)
- 136. Following the denial of the motion to recuse in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794), Judge Porteous granted a stay specifically to allow counsel for Lifemark to seek appellate review of his decision on that motion by the Fifth Circuit. (HP Ex. 56.)
- 137. The agreement to retain Don Gardner as additional counsel for Lifemark in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794) provided that Mr. Gardner would be paid a retainer of \$100,000 upon enrollment as counsel of record. (HP Ex. 35(b)).

- 138. The agreement to retain Don Gardner as additional counsel for Lifemark in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794) provided that Mr. Gardner would be paid an additional \$100,000 if Judge Porteous withdrew from the case. (HP Ex. 35(b).)
- 139. The agreement to retain Don Gardner as additional counsel for Lifemark in the *Lifemark v. Liljeberg* case (No. 2:93-cv-1794) provided that Mr. Gardner would be paid an additional \$100,000 if the case settled prior to trial. (HP Ex. 35(b).)
- 140. Don Gardner did not take an active role in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794). (*See* Tr. of Amato Dep. at 61:06-11.)
- 141. Prior to entering an appearance in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794), Jacob Amato was an experienced attorney.
- 142. Prior to entering an appearance in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794), Jacob Amato took two to three months to evaluate the merits of the case. (*See* Tr. of Amato Dep. at 8:02-15.)
- 143. Prior to entering an appearance in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794), Jacob Amato, after reviewing the claims and relevant evidence, concluded that he could win the case. (*See* Tr. of Amato Dep. at 49:07-15.)
- 144. To this day, Jacob Amato believes that the Liljebergs should have prevailed in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794). (*See* Tr. of Amato Dep. at 49:16-21.)
- 145. To this day, Jacob Amato believes that Judge Porteous's decision in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794) was "absolutely correct." (*See* Tr. of Amato Dep. at 52:22-53:02.)
- 146. To this day, Jacob Amato believes that the Fifth Circuit was "wrong, wrong, wrong" in its overturning of Judge Porteous's decision in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794). (*See* Tr. of Amato Dep. at 53:03-25.)
- 147. At the time Judge Porteous considered Lifemark's Motion for Recusal in the *Lifemark v. Liljeberg* case (No.: 2:93-cv-1794), Jacob Amato had never directly given any money to Judge Porteous. (*See* Tr. of Amato Dep. at 59:09-12.)
- 148. No federal rule of ethics requires that a judge recuse himself or herself if counsel include friends.
- 149. Robert Creely accepted an invitation to attend a bachelor party for Judge Porteous's son in Las Vegas in May 1999. (*See* Tr. of Creely Dep. at 55-56.)
- 150. Approximately 20 to 30 people attended the bachelor party for Judge Porteous's son in Las Vegas in May 1999. (*See* Tr. of Creely Dep. at 56.)
- 151. Don Gardner also attended the bachelor party for Judge Porteous's son in Las Vegas in May 1999. (*See* Tr. of Creely Dep. at 102.)

- 152. During the May 1999 bachelor party in Las Vegas, Robert Creely paid for a portion of a dinner attended by Judge Porteous's son and bachelor party guests. (*See* Tr. of Creely Dep. at 56-58.)
- 153. Robert Creely paid for a portion of the dinner attended by Judge Porteous's son and bachelor party guests out of friendship with Judge Porteous's son. (*See* Tr. of Creely Dep. at 58.)
- 154. Robert Creely has no personal recollection of paying for Judge Porteous's room during the May 1999 bachelor party in Las Vegas. (*See* Tr. of Creely Dep. at 60.)
- 155. Robert Creely has no first-hand knowledge of a June 1999 fishing trip taken by Judge Porteous and Jacob Amato. (*See* Tr. of Creely Dep. at 61.)
- 156. Robert Creely has no knowledge of a June 1999 fishing trip taken by Judge Porteous and Jacob Amato other than what Mr. Amato has told him. (*See* Tr. of Creely Dep. at 61.)
- 157. According to Robert Creely, Mr. Creely gave Jacob Amato one thousand dollars to give to Judge Porteous because Judge Porteous was Mr. Creely's friend. (*See* Tr. of Creely Dep. at 62-63.)
- 158. According to Robert Creely, When Mr. Creely discussed giving one thousand dollars to Jacob Amato to give to Judge Porteous, Mr. Creely and Mr. Amato did not have any discussion of the *Lifemark v. Liljeberg* case. (*See* Tr. of Creely Dep. at 63, 126-27.)
- 159. Robert Creely does not believe that Judge Porteous's ruling in the *Lifemark v. Liljeberg* case was swayed in any way as a result of the two thousand dollar gift that he allegedly received from Mr. Creely and Jacob Amato. (*See* Tr. of Creely Dep. at 97, 100, 127.)
- 160. Robert Creely did not believe that he gained any influence with Judge Porteous as a result of the two thousand dollar gift that he allegedly received from Mr. Creely and Jacob Amato. (*See* Tr. of Creely Dep. at 102.)
- 161. According to Jacob Amato, Judge Porteous only directly asked Mr. Amato for money on one occasion in their almost forty-year friendship. (*See* Tr. of Amato Dep. at 42:04-13.)
- 162. According to Jacob Amato, Mr. Amato agreed to give Judge Porteous the money he requested as a result of their friendship. (*See* Tr. of Amato Dep. at 42:21-25.)
- 163. According to Jacob Amato, when Mr. Amato gave Judge Porteous money in 1999, Mr. Amato did not expect any *quid pro quo* of any kind. (*See* Tr. of Amato Dep. at 43:07-09.)
- 164. According to Jacob Amato, when Mr. Amato gave Judge Porteous money in 1999, Mr. Amato did not intend to influence the *Lifemark v. Liljeberg* case. (*See* Tr. of Amato Dep. at 64:15-18.)

- 165. According to Jacob Amato, when Mr. Amato gave Judge Porteous money in 1999, Amato did not expect that that would influence the *Lifemark v. Liljeberg* case. (*See* Tr. of Amato Dep. at 64:19-23.)
- 166. According to Jacob Amato, Mr. Amato did not believe that his gift of money to Judge Porteous would improve Mr. Amato's chances of success in the *Lifemark v. Liljeberg* case. (*See* Tr. of Amato Dep. at 44:01-04.)
- 167. According to Jacob Amato, Mr. Amato did not believe that his gift of money to Judge Porteous would have any impact on the *Lifemark v. Liljeberg* case. (*See* Tr. of Amato Dep. at 44:05-07.)
- 168. According to Jacob Amato, Mr. Amato would probably have given Judge Porteous the money that he requested even if Judge Porteous was not a federal judge. (*See* Tr. of Amato Dep. at 44:19-21.)
- 169. According to Jacob Amato, Mr. Amato would probably have given Judge Porteous the money that he requested even if Judge Porteous was not presiding over a case that Amato was involved in. (*See* Tr. of Amato Dep. at 44:19-21.)
- 170. Robert Creely does not any recollection of attending or contributing money for a party following Judge Porteous's investiture as a federal judge. (*See* Tr. of Creely Dep. at 63.)
- 171. Robert Creely does not have any knowledge of money given to anyone in connection with Judge Porteous's son's internship or externship in Washington, D.C. (*See* Tr. of Creely Dep. at 64.)
- 172. Robert Creely believes that the Louisiana Office of Disciplinary Counsel began investigating him because Alan Baron sent a copy of Mr. Creely's testimony before the House Impeachment Task Force to that Office. (*See* Tr. of Creely Dep. at 76.)
- 173. Louis Marcotte never gave cash directly to Judge Porteous. (*See* Tr. of Dep. of Louis Marcotte, taken on August 2, 2010, at 7:02-04, hereinafter "Tr. of Dep. of Louis Marcotte.")
- 174. Lori Marcotte never gave cash directly to Judge Porteous. (*See* Tr. of Lori Marcotte Dep. at 6:04-07, taken on August 2, 2010, at 7:02-04, hereinafter "Tr. of Dep. of Lori Marcotte.")
- 175. Judge Porteous never accepted cash from any bail bondsmen. (*See* Tr. of Dep. of Louis Marcotte, taken on August 2, 2010, at 7:02-04; *see also* Tr. of Lori Marcotte Dep. at 6:04-07.)
- 176. Louis Marcotte never made a campaign contribution to Judge Porteous. (*See* Tr. of Dep. of Louis Marcotte at 7:05-06.)
- 177. Lori Marcotte never made a campaign contribution to Judge Porteous. (*See* Tr. of Lori Marcotte Dep. at 6:08-10.)

- 178. Judge Porteous has spoken nationally about the role of bonds in the criminal justice system.
- 179. Judge Porteous was known in Jefferson Parish to publicly advocate the use of commercial bonds in criminal cases.
- 180. During the period of the bonds signed by Judge Porteous and cited in the House Report, Jefferson Parish jails were under a court order for overcrowding.
- 181. During the period of the bonds signed by Judge Porteous and cited in the House Report, prisoners were being summarily released under a court order due to overcrowding.
- 182. Judge Porteous told others that he favored bonds, including split bonds, over mandatory releases or free bonds.
- 183. Bonds, including split bonds, were granted by judges, in part, to make it more likely that prisoners would return to the court.
- 184. Judge Porteous never asked that the Marcottes "kick back" a percentage of the bonds he signed for Judge Porteous. (*See* Tr. of Lori Marcotte Dep. at 101:23-102:7.)
- 185. Judge Porteous never asked that the Marcottes provide him with a percentage of the bonds he signed for Judge Porteous. (*See* Tr. of Lori Marcotte Dep. at 101:23-102:7.)
- 186. The Marcottes never gave Judge Porteous a percentage of any bonds that Judge Porteous signed. (*See* Tr. of Dep. of Louis Marcotte at 71:13-16.)
- 187. Judge Porteous never wrote a bond for the Marcottes or Bail Bonds Unlimited while he was a Federal judge. (*See* Tr. of Lori Marcotte Dep. at 6:11-13; *see also* Tr. of Dep. of Louis Marcotte at 7:21-24.)
 - 188. Article II does not allege that Judge Porteous suborned false statements.
- 189. Article II does not allege that Judge Porteous made a single false statement himself.
- 190. The Marcottes claim to have given cash or money directly to at least ten other state-court judges, several of which are still members of the current state court bench. (*See* Tr. of Dep. of Louis Marcotte at 7:25-10:02; *see also* Tr. of Lori Marcotte Dep. at 92:13-96:19.)
- 191. Lori Marcotte claims that she gave Judge George Giacobbe \$2,500 on two different occasions. (*See* Tr. of Lori Marcotte Dep. at 94:01-7; 97:13-15.)
 - 192. Judge George Giacobbe continues to serve as a state Court judge in Louisiana.
- 193. Lori Marcotte claims she gave Judge Roy Cascio \$10,000. (*See* Tr. of Lori Marcotte Dep. at 94:12-14; 95:18-22.)
 - 194. Judge Roy Cascio continues to serve as a state Court judge in Louisiana.

- 195. Lori Marcotte claims she gave Judge Stephen J. Windhorst \$2,500. (See Tr. of Lori Marcotte Dep. at 96:14-19.)
 - 196. Judge Stephen J. Windhorst continues to serve as a state Court judge in Louisiana.
- 197. Louis Marcotte claimed he gave money to state court judges. (*See* Tr. of Dep. of Louis Marcotte at 7:25-8:02.)
- 198. Louis Marcotte claimed he gave money to at least ten state court judges. (Tr. of Dep. of Louis Marcotte at 8:03-10:02.)
- 199. Louis Marcotte claimed he gave money to Judge Stephen J. Windhorst. (*See* Tr. of Dep. of Louis Marcotte at 8:03-10:02.)
- 200. Louis Marcotte claimed he gave money to Judge Roy Cascio. (*See* Tr. of Dep. of Louis Marcotte at 8:03-10:02.)
- 201. Louis Marcotte claimed he gave money to Judge Patrick McCabe. (See Tr. of Dep. of Louis Marcotte at 8:03-10:02.)
- 202. Louis Marcotte claimed he gave money to Judge George Giacobbe. (See Tr. of Dep. of Louis Marcotte at 8:03-10:02.)
- 203. Between 1984 and 1994, there was no law, regulation, or rule in Louisiana that specifically forbid state court judges from accepting the gift of a meal from another individual.
- 204. The Marcottes never told Judge Porteous that they would take him out to lunch in exchange for favorable treatment on the issuance of bonds.
- 205. Judge Porteous never told the Marcottes that he expected lunches in return for signing or setting bonds.
- 206. The Marcottes began having lunch with Judge Porteous (and other attendees) no earlier than 1992. (*See* Tr. of Dep. of Louis Marcotte at 22:23-24:23; *see also* Tr. of Lori Marcotte Dep. at 58:9-12.)
- 207. Louis Marcotte admits that he only began having regular lunches and contacts with Judge Porteous after 1993. (*See* Tr. of Dep. of Louis Marcotte at 22:23-24:23)
- 208. Both Lori and Louis Marcotte admit that the frequency of lunches and meetings with Judge Porteous increased after a September 1993 article published in the Times-Picayune regarding a controversial bond with Adam Barnett. (*See* Tr. of Dep. of Louis Marcotte at 22:23-24:23.)
- 209. When Judge Porteous had lunch with the Marcottes they discussed a variety of topics, including family, sports, politics, and other non-work related topics. (*See* Tr. of Lori Marcotte Dep. at 63:14-19.)

- 210. The House of Representatives has no documentary evidence of any lunches between Judge Porteous and the Marcottes while Judge Porteous was on the state bench before 1994. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 64.)
- 211. The House of Representatives only has documentary evidence of 21 lunches that they allege Judge Porteous attended with either Louis or Lori Marcotte. *See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 64.)
- 212. While on the Federal bench, Judge Porteous attended no more than eight lunches with the Marcottes. (*See* Tr. of Dep. of Louis Marcotte at 105:16-20.)
- 213. The only documentary evidence that the House of Representatives has of lunches between Judge Porteous, while he was on the Federal bench, and the Marcottes consists of receipts and orders that detail the following information:
 - On August 6, 1997, there was a lunch at the Beef Connection. The bill amounted to \$287.03. There were five attendees.
 - On August 25, 1997, there was a lunch at the Beef Connection. The bill amounted to \$352.43. There were ten attendees.
 - On November 19, 1997, there was a lunch at the Beef Connection. The bill amounted to \$395.77. There were ten attendees.
 - On August 5, 1998, there was a lunch at the Beef Connection. The bill amounted to \$268.84. There were nine attendees.
 - On February 1, 2000, there was a lunch at the Beef Connection. The bill amounted to \$328.94. There were eight attendees.
 - On November 7, 2001, there was a lunch at the Beef Connection. The bill amounted to \$635.85. There were fourteen attendees.

(See HP Exs. 372(a)-(e).)

- 214. During the alleged lunches with the Marcottes while Judge Porteous was on the Federal bench, no lunch had less than five attendees and some lunches having as many as fourteen attendees. (*See* HP Exs. 372(a)-(e).)
- 215. With regard to alleged lunches Judge Porteous had with the Marcottes, identified by HP Exs. 372(a)-(e), there is no contemporaneous record of Judge Porteous being asked to attend, let alone attending, the lunches.
- 216. With regard to several lunches the House of Representatives alleges Judge Porteous attended with the Marcottes, the only documentary evidence in the possession of the House of Representatives that Judge Porteous attended is that one of the attendees drank Absolut vodka and that Judge Porteous was known to also drink Absolut vodka. (*See* HP Exs 372(a)-(d).)

- 217. While on the Federal bench, there is no evidence that Judge Porteous communicated to state court judges that he sought or intended for the Marcottes to form corrupt relationships with those same state court judges. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 20.)
- 218. While on the Federal bench, there is no evidence that Judge Porteous asked state court judges to do anything illegal in dealing with the Marcottes. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 20.)
- 219. While on the state bench, there is no evidence that Judge Porteous ever asked a state judge to do anything illegal in dealings with the Marcottes.
- 220. While on the Federal bench, there is no evidence that Judge Porteous ever asked a state judge to form a corrupt relationship with the Marcottes. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 20.)
- 221. While on the Federal bench, Judge Porteous took no judicial actions to benefit the Marcottes. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 20.)
- 222. All of the lunches that Judge Porteous had with the Marcottes (and other attendees) were held in the open and were not hidden from the public. (*See* Tr. of Dep. of Louis Marcotte at 78:08-11.)
- 223. Between 1984 and 1994, it was common in Gretna, Louisiana for state court judges to have lunch with local attorneys and professional acquaintances. (*See* Tr. of Dep. of Louis Marcotte at 25:15-18; *see also* Tr. of Dep. of Lori Marcotte at 106:12-19.)
- 224. Between 1984 and 1994, it was common in Gretna, Louisiana for state court judges to have lunch bought for them by local attorneys and professional acquaintances. (*See* Tr. of Dep. of Lori Marcotte at 106:12-19.)
- 225. Between 1994 and 2001, it was common in New Orleans, Louisiana for federal court judges to have lunch with local attorneys and professional acquaintances. (*See* Tr. of Dep. of Louis Marcotte at 25:15-18; *see also* Tr. of Dep. of Lori Marcotte at 106:12-19.)
- 226. Between 1994 and 2001, it was common in New Orleans, Louisiana for federal court judges to have lunches bought for them by local attorneys and professional acquaintances. (*See* Tr. of Dep. of Lori Marcotte at 106:12-19.)
- 227. The current Louisiana ethics rules allow state judges to have lunches bought for them by lawyers as long as they are less than \$50.
- 228. The current Louisiana ethics rules allow state judges to accept free lunches from bail bondsmen as long as they are less than \$50.
- 229. The Louisiana rule limiting free lunches was only adopted within the last two years.

- 230. Prior to 1996, there were no limits on the acceptance of free meals by members of Congress. (*See* House Ethics Manual, Cmte. on Standards of Official Congress, (2008 ed.), at 27-28.)
- 231. From 1968 to 1990, the gift rules restricted the ability "to accept gifts from persons with a direct interest in legislation" but otherwise did not place a limit on meals or gifts received by members of Congress. (See House Ethics Manual, Cmte. On Standards of Official Congress, (2008 ed.), at 27-29. See also, Robert F. Bauer et al., Lobbying Under the New Disclosure and Gift Ban Requirements (Am. Law. Inst.- Am. Bar Assoc. Course of Study, Feb. 21, 1997).)
- 232. From January 1, 1992, through December 31, 1995, the gift rules prohibited the acceptance "of gifts worth a total of more than \$250 from any source in any one year." Exempted from this limitation, however, were "gifts of food and beverages consumed not in connection with gifts of lodging, *i.e.*, local meals, without any restriction as to cost or the source of the payment." (*See* House Ethics Manual, Cmte. On Standards of Official Congress, (2008 ed.), at 27-29. *See also*, Robert F. Bauer et al., *Lobbying Under the New Disclosure and Gift Ban Requirements* (Am. Law. Inst.- Am. Bar Assoc. Course of Study, Feb. 21, 1997).)
- 233. In 1996, the House approved a new gift rule "that imposed significant, new limitations" on the acceptance of gifts, including the elimination of the meal exemption. The Senate gift rule included a provision that "generally allowed the acceptance of any gift valued below \$50, with a limitation of less than \$100 in gifts from any single source in a calendar year." In 1999, the House amended its gift rule to incorporate this provision of the Senate rule, allowing acceptance of gifts, including meals, if valued below \$50. (See House Ethics Manual, Cmte. On Standards of Official Congress, (2008 ed.), at 27-29. See also, Robert F. Bauer et al., Lobbying Under the New Disclosure and Gift Ban Requirements (Am. Law. Inst.- Am. Bar Assoc. Course of Study, Feb. 21, 1997).)
- 234. The Marcottes, through their business, Bail Bonds Unlimited, were the dominant bonding agency in Gretna between 1990 and 1994. (*See* Tr. of Dep. of Louis Marcotte at 51:04-11.)
- 235. Between 1990 and 1994, the Marcottes had more bonds signed by state judges in Gretna than any other bonding company.
- 236. When Louis Marcotte first entered the bail bonds business as the owner of Bail Bonds Unlimited (BBU), he worked with Adam Barnett. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 68.)
- 237. On occasion, Judge Porteous turned down bonds requested by the Marcottes. (*See* Tr. of Lori Marcotte Dep. at 46:07-09; *see also* Tr. of Louis Marcotte Dep. at 68:20-69:01.)
- 238. On occasion, Judge Porteous rejected the amount of a bond that was requested by the Marcottes and adjusted the figure sought by the Marcottes. (*See* Tr. of Lori Marcotte Dep. at 52:16-20)

- 239. Judge Porteous did not invent the concept of splitting bonds. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 70; *see also* Tr. of Louis Marcotte Dep. at 64:03-05.)
- 240. Judge Porteous was not the first judge on the 24th Judicial District Court of Louisiana to split bonds. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 70; *see also* Tr. of Louis Marcotte Dep. at 64:03-05.)
- 241. Between 1984 and 1994, in 24th Judicial District Court of Louisiana, the majority of judges split bonds. (*See* Tr. of Dep. of Louis Marcotte Dep. at 64:06-08.)
 - 242. Splitting bonds was not illegal in Louisiana between 1984 and 1994.
- 243. Splitting bonds was not an improper judicial action in Louisiana between 1984 and 1994.
 - 244. There are legitimate reasons why a judge might split a given bond.
- 245. Between 1984 and 1994, in 24th Judicial District Court of Louisiana, there was no guideline, rule, or mandate that a state court judge not split bonds.
- 246. When Judge Porteous was asked to set a bond for a particular arrestee, his standard operating procedure was to either personally call or request that one of his staff members personally call the jail to confirm information. (*See* Tr. of Lori Marcotte Dep. at 45:23-46:06; *see also* Tr. of Dep. of Louis Marcotte at 72:25-73:22.)
- 247. When Judge Porteous was asked to set a bond for a particular arrestee, his standard operating procedure was to seek additional information from the relevant jail officials regarding the charge, the defendant, and the circumstances surrounding the arrest and possible release. (*See* Tr. of Lori Marcotte Dep. at 45:23-46:06; *see also* Tr. of Dep. of Louis Marcotte at 72:25-73:22.)
- 248. Judge Porteous would sometimes call arresting officers to confirm information before granting a bond. (*See* Tr. of Lori Marcotte Dep. at 79:12-14.)
- 249. Judge Porteous would sometimes communicate with the District Attorneys office to confirm their position on a bond. (*See* HP. Ex. 074(c).)
- 250. As a practice, Judge Porteous would not agree to a bond solely on the basis of the information provided to him by the Marcottes. (*See* Tr. of Lori Marcotte Dep. at 45:23-46:06; *see also* Tr. of Dep. of Louis Marcotte at 72:25-73:22; *see also* HP. Ex. 074(c).)
- 251. If the District Attorney objected to a bond, Judge Porteous would generally not agree to a bond. (*See* Tr. of Lori Marcotte Dep. at 43:22-44:01.)
- 252. Between 1984 and 1994, in 24th Judicial District Court of Louisiana, there was no guidebook for judges in regards to how much any given bond should be set for. (Tr. of Louis Marcotte Dep. at 74:04-08.)

- 253. Between 1984 and 1994, in 24th Judicial District Court of Louisiana, state court judges were given the authority and responsibility for setting bonds. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 62; *see also* Tr. of Louis Marcotte Dep. at 58:12-23.)
- 254. Each week, a different state court judge would be assigned the responsibility for serving as the "magistrate judge" who was supposed to be the primary judge responsible for reviewing bond applications. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 62; *see also* Tr. of Louis Marcotte Dep. at 58:12-23.)
- 255. Between 1984 and 1994, in 24th Judicial District Court of Louisiana, in practice, the assigned magistrate judge would often rarely be available or would refuse to answer phone calls from bonding agents. (*See* Tr. of Louis Marcotte Dep. at 58:24-59:14.)
- 256. Between 1984 and 1994, in 24th Judicial District Court of Louisiana, there was no law, rule, or order that precluded a judge, who was not serving in a given week as the magistrate judge, from reviewing and signing a bond. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 62; *see also* Tr. of Louis Marcotte Dep. at 58:12-23.)
- 257. Between 1992 and 1994, in 24th Judicial District Court of Louisiana, the Marcottes would often go chamber to chamber seeking judges to review, set, or split bonds. (*See* Tr. of Louis Marcotte Dep. at 97:04-07.)
- 258. The Articles of Impeachment do not allege that any bond signed by Judge Porteous was unlawful.
- 259. The Articles of Impeachment do not alleged that Judge Porteous any bond signed by Judge Porteous violated any judicial precedent on the amount or splitting of such bonds.
- 260. None of the bonds signed by Judge Porteous during his tenure as a state judge were ever opposed by the District Attorney.
- 261. Judge Porteous signed only one bond for the Marcottes and Bail Bonds Unlimited on his last day as a state court Judge. (*See* HP Exs. 350(01)-350(56) and 351(01)-(26); *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 262. Judge Porteous signed only two bonds for the Marcottes and Bail Bonds Unlimited in his last week as a state court Judge. (*See* HP Exs. 350(01)-350(56) and 351(01)-(26); see also (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 263. Judge Porteous signed only twenty-nine bonds for the Marcottes and Bail Bonds Unlimited during the month of October 1994 (his last month on the state bench) as a state court Judge. (*See* HP Exs. 350(01)-350(56) and 351(01)-(26); *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 264. Judge Porteous signed only twenty-seven bonds for the Marcottes and Bail Bonds Unlimited between the date of his confirmation for his federal judgeship (October 7, 1994) and the last day for which he served as a state court judge (October 27, 1994). (See HP Exs. 350(01)-

- 350(56) and 351(01)-(26); *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 265. The House of Representatives has no documentary evidence that Judge Porteous signed more than one bond for the Marcottes and Bail Bonds Unlimited on his last day as a state court Judge. (*See* HP Exs. 350(01)-350(56) and 351(01)-(26); *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 266. The House of Representatives has no documentary evidence that Judge Porteous signed more than two bonds for the Marcottes and Bail Bonds Unlimited in his last week as a state court Judge. (See HP Exs. 350(01)-350(56) and 351(01)-(26); see also House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 267. The House of Representatives has no documentary evidence that Judge Porteous signed more than twenty-nine bonds for the Marcottes and Bail Bonds Unlimited during the month of October 1994 (his last month on the state bench) as a state court Judge. (*See* HP Exs. 350(01)-350(56) and 351(01)-(26); *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 268. The House of Representatives has no documentary evidence that Judge Porteous signed more than twenty-seven bonds for the Marcottes and Bail Bonds Unlimited between the date of his confirmation for his federal judgeship (October 7, 1994) and the last day for which he served as a state court judge (October 27, 1994). (See HP Exs. 350(01)-350(56) and 351(01)-(26); see also House Judiciary Committee Report, March 4, 2010, Report 111-427, at 79.)
- 269. The Marcottes and Bail Bonds Unlimited never provided any home repairs for Judge Porteous while he was a Federal judge. (*See* Tr. of Lori Marcotte Dep. at 106:24-107:01)
- 270. The only home repairs the government alleges that the Marcottes or Bail Bonds Unlimited ever provided to Judge Porteous is the repairing of a wooden fence. (*See* generally House Judiciary Committee Report, March 4, 2010, Report 111-427.)
- 271. The House of Representatives is not in the possession of any records or documentation regarding the alleged home repairs provided by the Marcottes and Bail Bonds Unlimited to Judge Porteous. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 68.)
- 272. The Marcottes do not have any records or documentation regarding the alleged home repairs provided by the Marcottes and Bail Bonds Unlimited to Judge Porteous.
- 273. The House of Representatives is not in the possession of any records or documentation regarding the exact date the alleged home repairs provided by the Marcottes and Bail Bonds Unlimited to Judge Porteous. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 68.)
- 274. The Marcottes are not in the possession of any records or documentation regarding the exact date the alleged home repairs provided by the Marcottes and Bail Bonds

Unlimited to Judge Porteous. (See House Judiciary Committee Report, March 4, 2010, Report 111-427, at 68.)

- 275. The alleged home repairs, if they occurred, amounted to approximately a \$200 value to Judge Porteous. (*See* Hp Ex. 072 (d).)
- 276. The Marcottes have no personal knowledge that the alleged work on a wooden fence for Judge Porteous were actually performed by their employees. (*See* Tr. of Louis Marcotte Dep. at 87:08-14; *see also* Tr. of Lori Marcotte Dep. at 82:25-83:05.)
 - 277. The Marcottes never saw the work on a wooden fence for Judge Porteous.
- 278. The Marcottes and Bail Bonds Unlimited never paid for or assisted with any car repairs for Judge Porteous while he was a Federal judge. (*See* Tr. of Lori Marcotte Dep. at 106:20-23.)
- 279. The House of Representatives is not in the possession of any records or documentation regarding the alleged car repairs provided by the Marcottes and Bail Bonds Unlimited to Judge Porteous. (*See* Tr. of Lori Marcotte Dep. at 83:01-19; *see also* generally House Judiciary Committee Report, March 4, 2010, Report 111-427.)
- 280. Adam Barnett was a bail bondsman who worked closely with the Marcottes in Gretna. (*See* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 68.)
- 281. Adam Barnett has never been criminally charged with any matter related to the Articles of Impeachment.
- 282. The Marcottes have no evidence showing car repairs by the Marcottes and Bail Bonds Unlimited to Judge Porteous.
- 283. In an interview with the House of Representatives, Adam Barnett denied that he paid for Judge Porteous's car repairs while Judge Porteous was a state judge. (*See* May 13, 2010 Letter from Alan Baron to Richard Westling.)
- 284. In an interview with the House of Representatives, Adam Barnett denied that he ever purchased a car for Judge Porteous.
- 285. In an interview by the FBI as part of Judge Porteous's background investigation, Adam Barnett stated that he knew of no questionable conduct or acts by Judge Porteous. (*See* PORT000000512-513.)
- 286. In an interview by the FBI as part of Judge Porteous's background investigation, Adam Barnett stated that he knew of no financial problems experienced by Judge Porteous. (*See* PORT000000512-513.)
- 287. In an interview by the FBI as part of Judge Porteous's background investigation, Adam Barnett stated that he knew of personal problems or habits that would bar Judge Porteous from service as a federal judge. (*See* PORT000000512-513.)

- 288. In an interview by the FBI as part of Judge Porteous's background investigation, Adam Barnett recommended Judge Porteous as a federal judge. (*See PORT000000512-513*.)
- 289. There is no documentary evidence establishing who paid for the car repairs the Marcottes allegedly supplied to Judge Porteous.
- 290. It is unclear who paid for the car repairs the Marcottes allegedly supplied to Judge Porteous. (*See* Tr. of Lori Marcotte Dep. at 83:01-19.)
- 291. Lori Marcotte has never traveled to Las Vegas with Judge Porteous. (*See* Tr. of Lori Marcotte Dep. at 22:21-24.)
- 292. Louis Marcotte never directly gave Judge Porteous any cash on any trip that the two of them took together. (*See* Tr. of Dep. of Louis Marcotte at 103:12-16.)
- 293. In 1992, Judge Porteous was invited to Las Vegas by Louis Marcotte and turned down the offer. (HP Ex. 072(b); *see also* House Judiciary Committee Report, March 4, 2010, Report 111-427, at 65-66.)
- 294. Rhonda Danos and Lori Marcotte were close friends for some period of time between 1992 and 1997. (*See* Tr. of Lori Marcotte Dep. at 19:07-10, 30:11-32:13.)
- 295. In 1992, Rhonda Danos and Lori Marcotte stayed in a hotel room together on a trip to Las Vegas. (*See* Tr. of Lori Marcotte Dep. at 23:06-11.)
- 296. Rhonda Danos helped Lori Marcotte organize trips to Las Vegas, scheduled social outings for certain trips the Marcottes went on, and organized transportation for some of the Marcotte's guests. (*See* Tr. of Lori Marcotte Dep. at 23:17-27:07.)
- 297. Rhonda Danos and Lori Marcotte attended a Rolling Stones concert together. (*See* Tr. of Lori Marcotte Dep. at 29:21-25.)
- 298. Rhonda Danos assisted Lori Marcotte with the planning and preparation for a Christmas party at the Blue House at some point in the 1990s. (*See* Tr. of Lori Marcotte Dep. at 28:11-14.)
- 299. The Marcottes never provided a reserved parking spot to Michael Porteous. (*See* Tr. of Lori Marcotte Dep. at 77:17-78:23.)
- 300. The Marcottes never subsidized or provided a reserved parking spot to Michael Porteous that would have otherwise generated revenue for the Marcottes. (*See* Tr. of Lori Marcotte Dep. at 77:17-78:23.)
- 301. The parking lot utilized by the Marcottes near the Gretna courthouse in the mid 1990s did not require anyone who parked there to pay a daily fee. (*See* Tr. of Lori Marcotte Dep. at 77:17-78:23.)

- 302. The parking lot owned by the Marcottes and used by Michael Porteous was in fact an open lot physically open to any driver.
- 303. The parking lot owned by the Marcottes and used by Michael Porteous did not have a specifically marked spot for the use of Michael Porteous.
- 304. The parking lot owned by the Marcottes and used by Michael Porteous was sometimes used by strangers or members of the public.
- 305. At some point in the 1990s, people were charged for use of the parking lot owned by the Marcottes and used by Michael Porteous.
- 306. During the time that Judge Porteous served as a state judge, the Marcottes did not charge anyone for the use of the parking lot used by Michael Porteous.
- 307. The Senate of the United States has never removed an individual from office through the impeachment process solely on the basis of conduct occurring before he began his tenure in the office that is the subject of the impeachment. (*See* MICHAEL J. GERHARDT, THE FEDERAL IMPEACHMENT PROCESS: A CONSTITUTIONAL AND HISTORICAL ANALYSIS 108 (Univ. of Chicago Press, 2d ed. 2000).
- 308. In prior impeachment cases, the Senate specifically has declined to convict on articles of impeachment based on conduct that was alleged to have occurred before the accused assumed the office that is the subject of the impeachment. (*See generally* Archbald Senate Impeachment Trial.)
- 309. In 1912, the House of Representatives filed thirteen Articles of Impeachment against Robert Archbald, alleging misconduct in his then-current circuit judgeship (Articles 1 through 6) as well as in his prior district judgeship (Articles 7 through 12). The Senate convicted Archbald on Articles 1, 3, 4, 5, and 13, but acquitted Judge Archbald on the articles relating solely to Archbald's former office (Articles 7 through 12) (*See* 62 Cong. Rec. S1647 (1913) at Index p. XIV (listing "guilty" and "not guilty" votes for each of the rejected articles.)
- 310. In relation to Article II, the only misconduct Judge Porteous is alleged to have engaged in while a sitting member of the United States District Court for the Eastern District of Louisiana is that Judge Porteous used the power and prestige of his office to assist the Marcottes in forming relationships with State judicial officers and individuals important to the Marcottes' business.
- 311. Beginning on June 24, 1994, during its background investigation of Judge Porteous for his federal judgeship nomination, the FBI interviewed dozens of witnesses. (*See* generally FBI Background Check of Judge Porteous, HP Ex. 069(b).)
- 312. During its background check, the FBI was made aware that Judge Porteous had a relationship with the Marcottes. (*See* PORT000000471, PORT000000503, PORT000000513-514.)

- 313. Judge Porteous gave the FBI the name of Louis Marcotte and contact information as part of his background investigation.
- 314. The FBI specifically interviewed Louis Marcotte on two occasions during its background investigation of Judge Porteous, and Marcotte explained that he had known the Judge professionally and socially for the past ten years. (*See* PORT000000503 and PORT000000513-514.)
- 315. Prior to his confirmation, the FBI interviewed an individual, who asked that his/her identity remain anonymous, but who stated that "Judge Porteous works with certain individuals in writing bonds, specifically . . . Louis and Lori Marcotte." (PORT000000471.)
- 316. Prior to confirmation, the FBI interviewed Louis Marcotte, who told the FBI "that he sometimes goes to lunch with the candidate and attorneys in the area." (PORT000000471.)
- 317. Prior to his confirmation, the FBI interviewed an individual, who asked that his/her identity remain anonymous, but who stated that the Marcottes "frequently give the judge and his staff cakes, sandwiches, booze, and soft drinks." (PORT000000526.)
- 318. Prior to his confirmation, the FBI interviewed an individual, who asked that their identity remain anonymous, but who stated that "Louis Marcotte has told people that they 'kick back' money to Judge Porteous for reducing the bonds."
- 319. The information from an individual who told the FBI about an allegation of a kickback to Judge Porteous was referenced in a separate "note" to the Department of Justice, sent on August 19, 1994, months before Judge Porteous was confirmed. (PORT000000526.)
- 320. Prior to his confirmation, the FBI interviewed an individual, who asked that his/her identity remain anonymous, but who stated that Judge Porteous 'frequently sign[ed] bonds ahead of time for bondsmen." (PORT000000526.)
- 321. Prior to his confirmation, the FBI interviewed an individual, who asked that their identity remain anonymous, but who stated that the candidate "indirectly received \$10,000 from an individual in exchange for the candidate reducing his bond."
- 322. The information from an individual who told the FBI Judge Porteous received \$10,000 was referenced in a separate "note" to the Department of Justice, sent on August 19, 1994, months before Judge Porteous was confirmed.
- 323. The FBI interviewed an individual, whose identity has been redacted from discovery documents, who reported that Louis Marcotte told the girlfriend of an individual who had been arrested that it would take \$12,500.00 to get [the boyfriend] out of jail" and that "\$10,000.00 of this would go to Judge Porteous for the bond reduction." This information was referenced in a separate "note" to the Department of Justice, sent on August 19, 1994, months before Judge Porteous was confirmed. (PORT000000524 and PORT000000530.)
- 324. Prior to his confirmation, the FBI interviewed an individual, who asked that his/her identity remain anonymous, but who stated that "Porteous was "paid to reduce a bond" in

a different case and "had been given \$1,500 to reduce a bond" in that matter. This information was highlighted in a separate "note" to the Department of Justice, sent on August 19, 1994, months before Judge Porteous was confirmed. (PORT000000526 and PORT000000530.)

- 325. Prior to his confirmation, the FBI interviewed an individual, who asked that his/her identity remain anonymous, but who stated that Judge "Porteous had transferred a case from another division to his [Porteous] to help [redaction follows]." (PORT000000526.)
- 326. Moreover, confidential informants told the FBI that "Louis Marcotte has told people that they 'kick back' money to Judge Porteous for reducing the bonds." (PORT000000526.)
- 327. Louis Marcotte's conversations with the FBI on August 1, 1994 and August 17, 1994, referenced in Article II and Article IV, took place after Judge Porteous filled out his SF-86 form. (*See* PORT000000503 and PORT000000513-514.)
- 328. Louis Marcotte's conversations with the FBI on August 1, 1994 and August 17, 1994, referenced in Article II and Article IV, took place after Judge Porteous filled out his supplemental SF-86 form. (*See* PORT000000503 and PORT000000513-514.)
- 329. Louis Marcotte's conversations with the FBI on August 1, 1994 and August 17, 1994, referenced in Article II and Article IV, took place after Judge Porteous filled out his Senate questionnaire. (*See* PORT000000503 and PORT000000513-514.)
- 330. Louis Marcotte's conversations with the FBI on August 1, 1994 and August 17, 1994, referenced in Article II and Article IV, took place after Judge Porteous spoke with agents in his first background check. (*See* PORT000000503 and PORT000000513-514.)
- 331. On his Supplemental SF-86, Judge Porteous was asked whether there was anything in his personal life that could cause embarrassment to him or President Clinton. This question necessarily asks for Judge Porteous's subjective opinion and speculation regarding the meaning and application of the term "embarrassment."
- 332. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the Judiciary Committee of the United States Senate reviewed the FBI's background investigation of Judge Porteous. (*See* Confidential Notes Taken from FBI File G. Thomas Porteous, supplied to counsel by Senate Impeachment Trial Committee.)
- 333. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the Judiciary Committee of the United States Senate was specifically aware of allegations that Judge Porteous "is living beyond his means and this might mean that he is involved in some type of criminal activity." (*See* Confidential Notes Taken from FBI File G. Thomas Porteous, supplied to counsel by Senate Impeachment Trial Committee.)
- 334. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the

Judiciary Committee of the United States Senate was specifically aware of allegations that Judge Porteous "has a drinking problem." (*See* Confidential Notes Taken from FBI File G. Thomas Porteous, supplied to counsel by Senate Impeachment Trial Committee.)

- 335. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the Judiciary Committee of the United States Senate was specifically aware of allegations that Judge Porteous gambled on occasion. (*See* Confidential Notes Taken from FBI File G. Thomas Porteous, supplied to counsel by Senate Impeachment Trial Committee.)
- 336. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the Judiciary Committee of the United States Senate placed additional telephone calls to and interviewed Robert Creely, Donald Gardner, and Louis Marcotte, among others. (*See* Confidential Notes Taken from FBI File G. Thomas Porteous, supplied to counsel by Senate Impeachment Trial Committee.)
- 337. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the Judiciary Committee of the United States Senate made inquiries about whether Judge Porteous had a drinking problem.
- 338. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the Judiciary Committee of the United States Senate made inquiries about whether Judge Porteous had a gambling problem.
- 339. Once Judge Porteous was nominated by President Clinton to serve as a United States District Court Judge for the Eastern District of Louisiana, but prior to his confirmation, the Judiciary Committee of the United States Senate made inquiries about whether Judge Porteous was living beyond his means.
- 340. Except for allegations specifically set out in Article III of the Articles of Impeachment, Judge Porteous complied at all times with the U.S. Bankruptcy Code.
- 341. Judge Porteous and his wife Carmella Porteous retained attorney Claude C. Lightfoot, Jr. in the summer of 2000 to assist them in attempting to restructure their debts and possibly seeking bankruptcy protection.
- 342. Shortly after retaining him, Judge Porteous provided Claude Lightfoot with (among other documents) a copy of his May 2000 pay stub.
- 343. The Porteouses, with the assistance of Claude Lightfoot, sought to avoid filing for bankruptcy protection by informally restructuring their debts.
 - 344. The Porteouses' attempts to informally restructure their debts were unsuccessful.

- 345. The Porteouses filed a voluntary petition for bankruptcy protection on March 28, 2001.
- 346. Claude Lightfoot prepared and filed the Porteouses' voluntary petition for bankruptcy protection.
- 347. Claude Lightfoot prepared and filed all schedules and other documents filed in bankruptcy court in connection with the Porteouses' voluntary petition for bankruptcy protection.
- 348. Prior to filing the Porteouses' voluntary bankruptcy petition, Claude Lightfoot did not request an updated pay stub from Judge Porteous.
- 349. The Porteouses listed their correct Social Security numbers on the voluntary bankruptcy petition that they filed on March 28, 2001. (SC00753.)
 - 350. Social Security numbers are more accurate personal identifiers than last names.
- 351. The Porteouses signed the voluntary bankruptcy petition that they filed on March 28, 2001, with their full and correct signatures.
- 352. At the time that the Porteouses filed their voluntary petition for bankruptcy protection, the Times-Picaynue newspaper published weekly the names of all individuals who filed for bankruptcy protection.
- 353. Claude Lightfoot came up with the idea of filing the Porteouses' bankruptcy petition under a different last name than the Porteouses' true last name.
- 354. Claude Lightfoot came up with the idea of filing the Porteouses' bankruptcy petition under the last name "Ortous."
- 355. Claude Lightfoot suggested to the Porteouses that they file their bankruptcy petition under the last name "Ortous."
- 356. Claude Lightfoot suggested that the Porteouses file their bankruptcy petition under the last name "Ortous" in an attempt to limit the publicity surrounding that filing.
- 357. Claude Lightfoot advised the Porteouses that it was acceptable for them to file their bankruptcy petition under the last name "Ortous."
- 358. The Porteouses relied on the advice of their counsel, Claude Lightfoot, when they permitted their bankruptcy petition to be filed under the last name "Ortous."
- 359. The purpose of filing the Porteouses' bankruptcy petition under the last name "Ortous" was to avoid publicity and embarrassment.
- 360. The purpose of filing the Porteouses' bankruptcy petition under the last name "Ortous" was not to hinder, delay, or defraud creditors.

- 361. Claude Lightfoot came up with the idea of filing the Porteouses' bankruptcy petition using a post office box address rather than their residential address.
- 362. Claude Lightfoot suggested to the Porteouses that they obtain a post office box and file their bankruptcy petition using that post office box address.
- 363. Claude Lightfoot suggested that the Porteouses file their bankruptcy petition using a post office box address in an attempt to limit the publicity surrounding that filing.
- 364. Claude Lightfoot advised the Porteouses to open a post office box prior to filing their bankruptcy petition.
- 365. Claude Lightfoot advised the Porteouses that it was acceptable for them to file their bankruptcy petition using a post office box address.
- 366. The Porteouses relied on the advice of their counsel, Claude Lightfoot, when they obtained a post office box prior to filing their bankruptcy petition.
- 367. Claude Lightfoot listed the Porteouses' post office box address on their bankruptcy petition.
- 368. Claude Lightfoot filed the Porteouses' bankruptcy petition with full knowledge that it listed a post office box address, not their residential address.
- 369. The Porteouses relied on the advice of their counsel, Claude Lightfoot, when they permitted their bankruptcy petition to be filed using a post office box address.
- 370. The purpose of filing the Porteouses' bankruptcy petition with a post office box address was to avoid publicity and embarrassment.
- 371. The purpose of filing the Porteouses' bankruptcy petition with a post office box address was not to hinder, delay, or defraud creditors.
- 372. When they filed their bankruptcy petition on March 28, 2001, the Porteouses did so with the intent to amend that petition shortly thereafter to list their correct last name and residential address.
- 373. The Porteouses filed an amended voluntary petition for bankruptcy protection on April 9, 2001.
- 374. The Porteouses' amended voluntary petition for bankruptcy protection accurately listed their last names as "Porteous."
- 375. The Porteouses' amended voluntary petition for bankruptcy protection accurately listed their residential address.
- 376. Notices to creditors in the Porteouses' bankruptcy case were sent out on April 19, 2001. (SC00412.)

- 377. No creditors received any notice in connection with the Porteouses' bankruptcy filing containing or reflecting the name "Ortous."
- 378. No creditors received any notice in connection with the Porteouses' bankruptcy filing containing or reflecting a post office box address.
- 379. On March 28, 2001, the ending balance in the Porteouses' Fidelity Homestead Association money market checking account was \$283.42. (SC00611.)
- 380. On March 28, 2001, the Porteouses had filed their tax return for the year 2000, but had not yet received either a tax refund or confirmation that they would receive a tax refund.
- 381. The Chapter 13 Trustee who administered the Porteouses' bankruptcy case was Mr. S.J. Beaulieu.
- 382. During the pendency of the Porteouses' bankruptcy case, S.J. Beaulieu administered a total of approximately 6,500 Chapter 13 cases.
- 383. Bankruptcy Judge William Greendyke presided over the Porteouses' bankruptcy case from shortly after its filing in March 2001 until his retirement from the bench in the first half of 2004.
- 384. In 2001, William Heitkamp served as the Chapter 13 Trustee for bankruptcy cases filed under Chapter 13 of the Bankruptcy Code in the Southern District of Texas.
- 385. Other than holding the Section 341 creditors meeting in the afternoon rather than the morning, S.J. Beaulieu did not give the Porteouses any special or preferential treatment.
- 386. S.J. Beaulieu conferred with William Heitkamp concerning the procedures utilized by Judge Greendyke in connection with Chapter 13 bankruptcy cases pending before him.
- 387. S.J. Beaulieu conferred with William Heitkamp concerning the procedures utilized by Judge Greendyke in connection with tax returns and tax refunds in Chapter 13 bankruptcy cases pending before him.
 - 388. The Porteouses' Section 341 creditors meeting occurred on May 9, 2001.
- 389. Judge Greendyke signed an order confirming the Porteouses' proposed Chapter 13 repayment plan on June 28, 2001. (SC00050-52.)
- 390. Prior to May 9, 2001, the Porteouses were never under any obligation, instruction, or order in connection with their bankruptcy case not to incur new debt or take out new credit.
- 391. Prior to June 28, 2001, the Porteouses were never subject to any order in connection with their bankruptcy case not to incur new debt or take out new credit.
 - 392. Casino markers do not constitute debt.

- 393. In the case of *Telerecovery of Louisiana, Inc. v. Gaulon*, 738 So. 2d 662, the Louisiana Court of Appeals concluded that casino markers constitute checks, not debt.
- 394. Of the \$2,000 in markers that Judge Porteous utilized between May 10, 2001, and June 28, 2001, all but \$100 was repaid on the same day it was taken out.
- 395. In January 2004, attorneys with the Justice Department, including Noah Bookbinder and Dan Petalas, and agents and analysts with the FBI, including Patrick Bohrer, DeWayne Horner, and Gerald Fink, met with S.J. Beaulieu. (SC00409-15.)
- 396. During their January 2004 meeting, Justice Department and FBI personnel advised S.J. Beaulieu of certain allegations of misconduct or improprieties in connection with the Porteouses' bankruptcy case. (SC00409-15; JC200268.)
- 397. The allegations that the Justice Department and FBI personnel advised S.J. Beaulieu of during their January 2004 meeting included: filing the original petition with their name misspelled, undisclosed income, income tax refunds, the use of credit cards, transfers of property, and lifestyle activities that might not be consistent with the Porteouses' bankruptcy schedules and disclosures. (SC00409-15; JC200268.)
- 398. In March 2004, Justice Department and FBI personnel, including attorneys Noah Bookbinder and Dan Petalas, Special Agents Patrick Bohrer and DeWayne Horner, and Financial Analyst Gerald Fink, again contacted S.J. Beaulieu concerning the allegations of misconduct or improprieties in connection with the Porteouses' bankruptcy case. (JC200267.)
- 399. During their March 2004 conversation, Justice Department and FBI personnel instructed S.J. Beaulieu to "use whatever powers he has" and "take whatever action he felt appropriate" in connection with the Porteouses' bankruptcy case. (JC200267.)
- 400. On April 1, 2004, S.J. Beaulieu's staff attorney Michael Adoue sent a letter to FBI Agent Wayne Horner. (JC200268-69.)
- 401. In his April 1, 2004 letter, S.J. Beaulieu's staff attorney advised the FBI that "the only allegation that the Trustee has evidence of relates to debtor's FICA tax withholding which should have stopped after the FICA withholding limits were met." (JC200268.)
- 402. In his April 1, 2004 letter, S.J. Beaulieu's staff attorney advised the FBI that, "[i]n Mr. Beaulieu's opinion, extending the [Porteouses' Chapter 13 repayment] plan at the late date to recoup the different in disposable income [resulting from FICA tax withholding] would not substantially increase the percentage paid to unsecured creditors." (JC200268.)
- 403. In his April 1, 2004 letter, S.J. Beaulieu's staff attorney advised that, "[s]ince Mr. Beaulieu has no evidence to support the suspicions expressed by the FBI agents, he does not intend to take further action related to these allegations." (JC200268.)
- 404. S.J. Beaulieu never brought any allegations of misconduct or improprieties in connection with the Porteouses' bankruptcy case to the attention of the bankruptcy court or Judge Greendyke.

- 405. The Porteouses timely paid all repayments called for under their confirmed Chapter 13 repayment plan.
- 406. Upon completion of their Chapter 13 repayment plan, the Porteouses paid more than \$57,000, of which more than \$52,000 was disbursed to unsecured creditors. (SC00419.)
- 407. The Porteouses received a discharge following completion of their Chapter 13 repayment plan on July 22, 2004. (SC00013.)
 - 408. S.J. Beaulieu, as Chapter 13 Trustee, did not object to the Porteouses' discharge.
 - 409. No creditor objected to the Porteouses' discharge.
 - 410. The government did not object to the Porteouses' discharge.
 - 411. No other party objected to the Porteouses' discharge.
- 412. S.J. Beaulieu, as Chapter 13 Trustee, has not sought to revoke the Porteouses' discharge.
 - 413. No creditor has sought to revoke the Porteouses' discharge.
 - 414. The government has not sought to revoke the Porteouses' discharge.
 - 415. No other party has sought to revoke the Porteouses' discharge.
- 416. On May 18, 2007, the Criminal Division of the Justice Department sent a letter to Fifth Circuit Chief Judge Edith H. Jones. (SC00767-88.)
- 417. In its May 18, 2007 letter to Chief Judge Jones, the Justice Department stated that it would "not seek criminal charges against Judge Porteous" in connection with the allegations that he "filed false declarations, concealed assets, and acted in criminal contempt of court during his personal bankruptcy action." (SC00767.)
- 418. Among the considerations stated in Justice Department's May 18, 2007 letter for its the decision not to seek criminal charges against Judge Porteous were "concerns about the materiality of some of Judge Porteous's provably false statements; the special difficulties of proving mens rea and intent to deceive beyond a reasonable doubt in a case of this nature; and the need to provide consistency in charging decisions concerning bankruptcy and criminal contempt matters." (SC00767 & SC00774 n.5.)
- 419. On July 25, 2007, Ron Woods and Larry Finder interviewed S.J. Beaulieu. (JC200251-53.)
- 420. During their July 25, 2007 interview, S.J. Beaulieu told Ron Woods and Larry Finder that "the only preferential treatment he provided to Porteous was to hold his 341 meeting on the docket from morning to afternoon to reduce the chances of Porteous being seen by bankruptcy lawyers." (JC200251.)

- 421. During their July 25, 2007 interview, S.J. Beaulieu told Ron Woods and Larry Finder that, since the Porteouses' amended petition "had been filed prior to the 341 hearing," "the unsecured creditors all received notice of the actual identities of the debtors." (JC200252.)
- 422. During their July 25, 2007 interview, S.J. Beaulieu told Ron Woods and Larry Finder that, since the Porteouses' "unsecured creditors all received notice of the actual identities of the debtors," he viewed their use of incorrect names on their initial bankruptcy petition to be one of "no harm, no foul." (JC200252.)
- 423. During their July 25, 2007 interview, S.J. Beaulieu told Ron Woods and Larry Finder that knowledge of the Porteouses' "gambling loss[es] would not have affected his judgment in any way" and "many, if not most, of the debtors that come before him have gambling problems." (JC200252-53.)
- 424. In 2001, 1,031,493 debtors filed for Chapter 7 bankruptcy protection and 419,750 debtors filed for Chapter 13 bankruptcy protection, for a total of 1,451,243 debtors who sought bankruptcy protection. (See Bankruptcy statistics for calendar year 2001 maintained by the Administrative Office of the U.S. Courts on behalf of the Federal Judiciary, http://www.uscourts.gov/uscourts/Statistics/BankruptcyStatistics/BankruptcyFilings/2001/1201_f2.xls.)
- 425. In 1999, U.S. Bankruptcy Judge Steven W. Rhodes analyzed the bankruptcy schedules filed in 200 randomly selected consumer cases pending in the Eastern District of Michigan and found that 99% (198 of 200) of those schedules contained errors. (*See* Steven W. Rhodes, *An Empirical Study of Consumer Bankruptcy Papers*, 73 Am. Bankr. L.J. 653, 678 (1999).)

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United States District Court Judge for the Eastern District of Louisiana

Dated: August 5, 2010

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2010, I served copies of the foregoing by electronic means on the House Managers, through counsel, at the following email addresses:

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